

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

TAX CREDITS: Creates the Ports of Louisiana Investor Tax Credit.

DIGEST

Investor Tax Credit

Proposed law authorizes the Department of Economic Development to grant a transferable tax credit equal to the total "capital costs" of a "qualifying project" in a Louisiana "port or port and harbor" to be taken at 5% per tax year if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget, certifies to the secretary of the department that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits provided for the capital costs of the project, whether from increased port or port and harbor activity because of the grant of the tax credit or otherwise. The tax credit may be carried forward for 10 years.

Defines "capital costs" to include all costs and expenses incurred by one or more investing companies in connection with the acquisition, construction, installation, and equipping of a "qualifying project," but provides that "capital costs" shall not include property owned or leased by the investing company or a related party before the commencement of "qualified project" unless the property was physically located outside the state for a period of at least one year prior to the date the qualifying project was placed in service.

Defines "qualifying project" to include a project to be sponsored or undertaken by a public port and one or more investing companies that has a capital cost of not less than \$5 million and at which the predominant trade or business activity conducted will constitute "port or port and harbor activities" - which are defined as meaning any trade or business described in the NAICS Code Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a port authority.

Proposed law requires execution of a cooperative endeavor between the investing company proposing the qualifying project and the public port in whose geographic jurisdiction the qualifying project is to be located indicating cooperation and support among all the parties.

Proposed law authorizes and provides for requirements for the transferability of an investor tax credit. Authorizes a fee of up to \$200 per transferee and provides that the carryforward period for a credit that is transferred or sold begins on the date the credit was originally earned and available to the initial investing company for use or transfer.

Proposed law provides for the certification and administration of the tax credit. Authorizes DED to determine, through the promulgation of rules, which projects and capital cost expenditures qualify for tax credits. Further requires that all rules are subject to oversight by the House ways and means and the Senate revenue and fiscal affairs committees.

Proposed law requires DED to submit its initial certification of a project to the investing company and to the secretary of DOR. Further requires the Dept. of Transportation and Development to inspect the construction site of the qualifying project to verify that capital costs expenditures have been expended by the investing company.

Proposed law requires DED to prepare a written report, with input from the Legislative Fiscal Office, outlining the overall impact of the tax credits and the economic impact of the tax credits on the port and maritime industry located in this state and regionally.

Proposed law authorizes the recapture of credits if DED finds that funds for which an investing company received credits are not invested in and expended with respect to capital costs of a qualifying investment.

Proposed law authorizes DOR to recover disallowed credits through any collection remedy authorized by present law and initiated within three years from Dec. 31 of the year in which the credits were earned. Further authorizes the assessment of interest on recovered credits at a rate of three percentage points above the rate provided in present law, which shall be computed from the original due date of the return on which the credit was taken.

Proposed law provides that the provisions of proposed law shall be effective until Jan. 1, 2015, and prohibits tax credits from being granted after such date.

Proposed law prohibits DED from hiring any new employees to implement the provisions of proposed law.

Import Export Cargo Credit

Proposed law, beginning January 1, 2009, grants a credit against the income and corporation franchise tax of a taxpayer who has received certification from the secretary of the Department of Economic Development equal to the product of multiplying \$5.00 by the taxpayer's number of tons of "qualified cargo" for the taxable year but only for the total amount of the allocation provided to the taxpayer by the secretary of DED for such taxable year. The tax credit is only allowed for all or a portion of a fiscal year if the commissioner of administration certifies to the secretary of DED that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits whether from increased utilization of public port facilities because of the tax credit or otherwise, and such certification is approved by the Joint Legislative Committee on the Budget. The tax credit may be carried forward for 5 years.

"Qualified cargo" is defined as any "breakbulk" or "containerized" machinery, equipment, materials, products, or commodities owned by an "international business entity" which are imported or exported to or from a facility located in Louisiana and which are so moved by way of an oceangoing vessel berthed at a public port facility during the taxable year.

"Breakbulk cargo" and "containerized cargo" are defined as machinery, equipment, materials, products, or commodities, including but not limited to palletized or unpalletized bagged, packaged, wrapped, drummed, baled, or crated goods and commodities, including offshore drilling platforms and equipment and cargo shipped in a container used for the transport of cargo. Breakbulk cargo specifically excludes liquid or dry commodities that are handled in bulk.

"International business entity" is defined as a commercial entity, all or a portion of whose activities involve the import or export of breakbulk or containerized cargo to or from manufacturing, fabrication, assembly, distribution, processing, or warehousing facilities located within Louisiana.

Proposed law exempts the proposed law from the requirements of the Public Records Law.

Proposed law authorizes DED to promulgate rules and regulations as are necessary to implement the provisions of proposed law subject to legislative oversight by the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

(Amends R.S. 44:4.1(B)(29); adds R.S. 47:6035)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Changes the amount of the tax credit from up to 5% to equal to 5%.

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill.

1. Provides a reference to proposed law in present law provisions relative to public records.

Summary of Amendments Adopted by House

House Floor Amendments to the reengrossed bill.

1. Prohibits the Department of Economic Development from hiring any new employees to implement the provisions of proposed law.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the re-reengrossed bill.

1. Adds the provisions of the Import Export Cargo Tax Credit as described in the digest.
2. Specifies that the Investor Tax Credit for the capital costs of a project must be taken at 5% per tax year, only if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget, certifies to the secretary of the department that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits provided for the capital costs of the project, whether from increased port or port and harbor activity because of the grant of the tax credit or otherwise.